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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/717,088 | 11/22/2000 | Thomas Sai Ying Ko | Q-61930 | 1770 |

7590 08/27/2002

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Washington, DC 20037-3213

EXAMINER

WILLIS, MICHAEL A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1617 | 15 |

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/717,088 | KO, THOMAS SAI YING |
| Examiner | Art Unit | |
| Michael A. Willis | 1617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10 June 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 22-38 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) _____ is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

4) Interview Summary (PTO-413) Paper No(s). _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

Applicant's Request for Continued Examination (RCE) submitted 10 June 2002 is entered. Claims 1-21 are cancelled. New claims 22-38 are added. Claims 22-38 are pending. Any previous rejections that are not restated in this Office Action are hereby withdrawn. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The following new grounds of rejection are made:

Claim Rejections - 35 USC § 103

Claims 22-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gleichenhagen et al (US Pat. 3,987,000) in view of Tipton et al (US Pat. 5,632,727) and/or Modak et al (US Pat. 5,708,023).

Gleichenhagen teaches sprayable polymer compositions. The reference teaches that sprayable polymer compositions for formation of a film over a wound area are usually formed in solvents such as ethyl acetate, acetone, or ethanol (see col. 1, lines 33-65). Such films contain polymers such as acrylic acid and methacrylic acid, as well as softeners (plasticizers) such as phthalates (see col. 1, lines 45-48). Acrylic acid and methacrylic acid are taught as preferred monomers for the compositions of Gleichenhagen (see col. 4, lines 17-25). The reference further teaches the use of additional antiseptic or bacteriostatic substances (see col. 6, line 65 through col. 7, line 2). While the reference differs from the instant claims with respect to concentrations of components, differences in concentration or temperature will not support the

patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. Where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation. *In re Aller*, 220 F.2d 454, 105 USPQ 233, 235 (CCPA 1955). While the reference generally teaches the use of active substances in combination with the sprayable polymer compositions, the reference lacks the scope of active agents as claimed, particularly cetrimide, chlorbutanol, and triclosan.

Tipton teaches a biodegradable film dressing and an apparatus for the spray delivery of the dressing (see col. 4, line 41 through col. 6, line 7). The biodegradable film can be used to protect and to promote healing of injured tissue and to deliver biologically active agents (see col. 2, lines 24-48). Solvents used include acetone (see col. 6, lines 42-55). A water-soluble pore-forming agent can be included (see col. 7, lines 34-49). An antifungal agent for use in the composition includes tolnaftate (see col. 9, lines 28-67). Phthalic esters can be included as modifiers (see col. 10, lines 56-60).

Modak teaches a method of inactivating irritants in a fluid contacting skin comprising applying a composition to the skin (see col. 2, lines 19-62). The active anti-irritant agents in the compositions of Modak include cetrimide, chlorbutanol, and triclosan (see col. 4, line 46 through col. 5, line 3).

It would have been obvious to one of ordinary skill at the time the invention was made to have modified the compositions of Gleichenhagen by the use of active agents such as tolnaftate, cetrimide, chlorbutanol, or triclosan in order to benefit from the activities of such agents in topical wound dressings as taught by Tipton and/or Modak.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael A. Willis whose telephone number is (703) 305-1679. The examiner can normally be reached on alt. Mondays and Tuesday to Friday(9am-6:30pm).

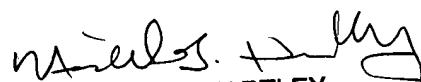
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell Travers (acting SPE) can be reached on (703) 308-4603. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.



Michael A. Willis
Examiner
Art Unit 1617

maw
August 26, 2002


MICHAEL G. HARTLEY
PRIMARY EXAMINER